



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

No.32, Besant Road, Chokkikulam, Madurai - 625 002, Tamil Nadu, India.
P: +91-452-2531874 & 2539520 Fax: +91-452- 2531874 Mobile: 99943-68540
E.mail: hrda.india@gmail.com Web: www.hrdaindia.org

Ref No: HRDA/North/J&K/02/07/2019

July 4, 2019

To,

Mr.Khaleel Ahmed

National Focal Point - Human Rights Defenders & Deputy Registrar
National Human Rights Commission
Manav Adhikar Bhawan, Block-C, GPO Complex, INA,
New Delhi – 110 023
Email: hrd-nhrc@nic.in

Dear Sir,

Sub: HRD Alert - India – Urgent Appeal for Action –Denial of right to hold a press conference to release a report by Amnesty International India in Srinagar: Regarding

Greetings from Human Rights Defenders Alert - India!

HRD Alert - India is a forum of Human Rights Defenders for Human Rights Defenders. It endeavours to initiate actions on behalf of Human Rights Defenders under threat or with security concerns.

We are writing to express our grave concern over the intimidation and denial of right to hold a press conference by Amnesty International India.

Status of the Human Rights Defender:

Amnesty International is a reputed global movement of people who are committed to defend the rights of those who are denied justice or freedom. Amnesty International India is their part of the global movement based in India. As part of its work human rights education, discussions, workshops and awareness on human rights issues is being undertaken and as a campaign to seek justice for human rights violations in the country reports are being brought out from time to time and they hold events and discussions.

Source of Information on the Incident:

- Communication with Amnesty International India

- The Coordinator of HRDA for the South & West of India
- Media Reports

The Perpetrators:

- The Senior Superintendent of Police, Srinagar
- The Deputy Commissioner, Srinagar

Date of Incident:

June 11 & 12, 2019

Place of Incident:

Srinagar, Jammu & Kashmir

Details of the incident:

On 12 June 2019, Amnesty International India had planned a press conference in a private hotel in Srinagar, to discuss the findings of their report on the misuse of the Jammu & Kashmir Public Safety Act. The report also had findings relating to arbitrary detentions and judicial harassment.

This venue was the same venue, that Amnesty had used in 2017 to release their report on the use of pellet guns, there was no permission required to hold a press conference earlier. This time too, they checked with the hotel to confirm, if prior permission was required and the hotel informed them that it was not needed. However, on 11 June, 2019 a day before the press conference, the hotel called, Amnesty's local consultant Mr. Zahoor Wani to say that the police had visited them and told them not to let Amnesty have the Press Conference since they did not have permission.

Amnesty found out that permission could only be given by the Deputy Commissioner (DC) who has the discretionary power to grant the permission and to arrive at a decision, he may seek police reports. They met the DC who informed them that the permission would be given, but sent a referral to the SSP whom Amnesty met, who in turn sent it down to the Superintendent of Police. The SSP seemed to be quite conversant with the report and the press invite and was not too pleased with the name of the report to be released.

The next morning, when they called the SSP, Srinagar at around 10:45 AM, he said that the confidential police report had already gone in the previous evening to the DC, hence Amnesty went to the DC office and his staff informed them that the police cited prevailing law and order situation and hence not to have this event. A written order/response of denial was sought, but were refused the same.

On the way, Mr.Zahoor Wani received two phone calls from Police Station Kothibagh, asking him to report there, as the said police station was close to the hotel where the staff were staying, he requested the police to meet him there. While he went to park his car at hotel parking he saw large number of policemen who were sent to the hotel to ascertain that they would not be holding the press conference at the planned venue or meet the press at the hotel. Some police vehicles were placed at the hotel gate and the police were inside the hotel premises as well and the hotel administration also informed them that police had instructed them not to allow the Amnesty event there. It is learnt, that they had also called the Press Club, the previous evening, to not to allow Amnesty, space for the press conference.

The police who were present at the hotel stepped in to prevent even separate interviews with reporters who were invited to the hotel. Later, the report was released online and few copies were physically handed over to a few journalists and some stakeholders which include Jammu &Kashmir State Human Rights Commission, Jammu &Kashmir High Court Bar Association. They also had sought an appointment with the Governor to give him a copy, but he had not responded.

Not allowing a human rights organisation to function, is a serious issue, a denial of fundamental right to expression. It is apprehended that the administration and police did not want the release of the report, which has exposed serious human rights violations. It is pertinent to note that, on March 8, 2019, Amnesty had shared the draft of the report with the Jammu &Kashmir Police and prison authorities for their response on the findings, for which they did not receive a response.

In the past, HRDA had filed a complaint with regard to a case filed against Amnesty International India by the Karnataka police under sedition law after it had organised an event on August 13, 2016, titled '*Broken Families*', as part of its campaign to seek justice

for human rights violations in Jammu & Kashmir. The complaint was closed by the NHRC on receipt of the police withdrawing the case at the lower court.

We wish to iterate that Article 19 of the Universal Declaration of Human Rights proclaims the right to freedom of expression, which includes freedom “*to seek, receive and impart information and idea through any media regardless of frontiers*”. Further Article 19 of the International Covenant on Civil and Political Rights sets forth the right to freedom of opinion, expression and information.

Article 19 (1) (a) of the Indian Constitution guarantees to all its citizens the right to freedom of speech and expression. The Hon'ble Supreme Court of India in *Union of India Vs. Association for Democratic Reforms* had observed that “*one sided information, and non-information, all equally create and uninformed citizenry which makes democracy a farce. Freedom of speech and expression includes right to impart and receive information which includes freedom to hold opinion*”.

The Constitution of India explicitly declares that all citizens shall have the right to freedom of speech and expression [Article 19(1)(a)]. The Supreme Court in *Shreya Singhal v. State* observed that there are three concepts which are fundamental in understanding the reach of this most basic of human rights which are discussion, advocacy and incitement. Mere discussion or even advocacy of a particular cause howsoever unpopular is at the heart of Article 19(1)(a). It is only when such discussion or advocacy reaches the level of incitement, the reasonable restrictions under Article 19(2) comes into action.

Therefore in the present case, compelling Amnesty International India not to hold press conference without any notice or reason amounts to curtailment of freedom of speech and expression.

Appeal:

We therefore urge you to immediately take necessary steps to ensure that the Superintendent of Police, the Deputy Commissioner and District Magistrate of Srinagar:-

- Order an immediate, independent, thorough, transparent, effective and impartial investigation into the above-mentioned incident of intimidation and denial of freedom to hold a press conference to release a report and share information on human rights violation;

- Ensure that human rights organisations in Jammu & Kashmir are allowed to carry out their genuine human rights work as per the fundamental rights enshrined in the Constitution;
- Guarantee in all circumstances the physical and psychological integrity of the members of the organisation from further reprisals from the perpetrators and give this assurance to the NHRC of India in writing immediately and urgently;
- Ensure provisions of reparation, compensation, apology to the organization for the psychological sufferings they are undergoing because of the intimidation, and denial of rights;
- Put an end to all acts of attack and harassment against all human rights defenders working individually and collectively as organisations in the State of Jammu & Kashmir and ensure that in all circumstances they carry out their activities as defenders of human rights without any hindrances;
- Takes steps to conform to the provisions of the UN Declaration on Human Rights Defenders, adopted by the General Assembly of the United Nations on December 9, 1998, especially:
 - Article 1, which states that “everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels;
 - Article 12.2, which provides that "the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration”;
- Recommend urgently and speedily during the pendency of this complaint, the SHRC in Jammu & Kashmir to also take necessary steps to establish a state focal point for HRDs in order to ensure that HRDs have a new protection mechanism in their own state;
- Recommend urgently and speedily during the pendency of this complaint, the NHRC to convene a meeting of all state human rights institutions in the state [the

SHRC, the SCW, the SCPCR, the SCM, the SIC, State Commissioner for PWDs, etc.] to ensure that a coordinated strategy is developed within the State of Jammu & Kashmir for the protection of the rights of human rights defenders;

- Recommend urgently and speedily during the pendency of this complaint, the State Government of Jammu & Kashmir in collaboration with the NHRC Focal Point on HRDs and the SHRC Jammu & Kashmir to provide sensitisation training to law enforcement and security forces on the role and activities of human rights defenders as a matter of priority, with technical advice and assistance from relevant United Nations entities, NGOs and other partners;
- Recommend urgently and speedily during the pendency of this complaint, the State Government of Jammu & Kashmir in collaboration with the SHRC, Jammu & Kashmir to publicly acknowledge the importance and legitimacy of the work of human rights defenders, i.e. anyone who, “individually and in association with others, ... promote[s] and ... strive[s] for the protection and realization of human rights and fundamental freedoms at the national and international levels” (Art.1 of the Declaration on Human Rights Defenders);
- More generally, ensures in all circumstances the respect for human rights and fundamental freedoms in accordance with the Universal Declaration of Human Rights and with international human rights instruments ratified by India is strictly adhered to in the State of Jammu & Kashmir.

Looking forward to your immediate action in this regard,

Yours sincerely,



Henri Tiphagne
Honorary National Working Secretary